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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/926,584 | 06/03/2002 | Peter Kancsar | ATM-2239 | 2928 |

7590

08/22/2003

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EXAMINER

FOSTER, JIMMY G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/22/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

N,K

Office Action Summary

Application No.

09/926,584

Applicant(s)

KANCSAR ET AL.

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 22, 23 and 30-41 is/are rejected.
- 7) ☒ Claim(s) 18-21 and 24-29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> | 6) <input type="checkbox"/> Other: |

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1. Claims 32-41 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 32 and 41 call for a process without any steps and are therefore indefinite since it is unclear what are the limitations of the process.

It is unclear what is being claimed in line 4 of claim 33. It appears that "n" should be "in".

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-17, 22, 23, 32-34, 40 and 41 are rejected under 35 U.S.C. § 102(b) as being anticipated by De Felice (4,231,477). In the reference of De Felice, there is a blister pack described including blister recesses 4, a flat shoulder surface/film 2, a cover/covering film 3, and incision patterns 6. The shoulder and recesses together constitute the *base part* of the pack. The incision patterns form cutting points (col. 2, line 10-17) and an edge 7 which will puncture the film. Therefore, the cutting points and edges 7 may be said to constitute *opening aids*.

Each of the recesses on its *concave side* is covered by the cover film

3.

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The incision patterns 6 are formed by corner-shaped incisions, as shown in Figure 1. The examiner asserts that the incisions constitute intersecting *weakening lines* since they will weaken the base part of the pack.

After forming the recesses in the base part and after forming the opening aids 6,7, which includes making the weakening lines/incisions, the base part is punched out (i.e. cut-out). See column 1, line 64 through col. 2, line 9.

In addition, there is provided a *fold line* for each said incision pattern, as shown in Figures 2 and 3, with which triangular portions/*surface elements* of the base part are bent/swiveled out of the plane of the base part to the concave side of the recesses.

It is to be noted that the fold lines shown in Figures 2 and 3 are bent by the patient (col. 2, lines 13-14). The opening aids once bent, as is shown in Figures 2 and 3, are therefore capable of being bent by the patient again along such fold lines to the convex side of the recesses, even though the reference does not discuss doing this. This capability of bending on the convex side reads on what Applicant has claimed in claim 16 since the claimed bending in "can be bent" is recited in the manner as intended use and not as structure in the claim. The capability also reads on what is claimed in claim 17 since the claimed folding in the wording "in that by folding" also constitutes intended use and not structure in the claim.

Regarding claim 22 which calls for plural fold lines, the four cutting points of De Felice may be considered to defining an opening aid folded out of the plane of the base part.

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Regarding claim 23, insofar as claimed, the triangular elements of De Felice, bent out of the base part, may be considered to define wings.

In use the blister of De Felice is rolled up (more than is shown in Figure 3) so that a selected opening aid will puncture the covering film 3 over a respective recess 4. Regarding Applicant's claim 32, the reference of De Felice describes using the blister pack. See column 2, lines 10-20.

Applicant's claims 33 and 34 call for a roll-up element. However, the limitations regarding the roll-up element do not distinguish over the outer corner of the blister pack that is located outwardly of the incisions 6. The claims also call for the opening aid to be detached from the shoulder area as the pack is rolled up and to become at a tangent with rolled shoulder area (i.e. bent outwardly on the convex side). However, this limitation is intended use. The examiner asserts that the opening aids defined by incisions 6 of De Felice are capable of becoming detached (i.e. moved out of registry with the plane) from the shoulder area of the base part 2 in this manner as claimed by Applicant since the incisions of De Felice are already cut completely through the material.

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 30, 31 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over De Felice (4,231,477) in view of published PCT document No. 96/25254 to Reiterer et al. The abstract of the reference of Reiterer et al suggests that the material for making the base part of a blister pack may be composite material, including an aluminum material for the purpose of permitting the recesses to be molded by cold forming. Accordingly, it would have been obvious in view of Reiterer et al to have made the base part 2 of De Felice from such a composite material for the purpose of permitting the recesses of the base part to be made by cold forming.

6. Claims 18-21 and 24-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 35-39 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am-5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax

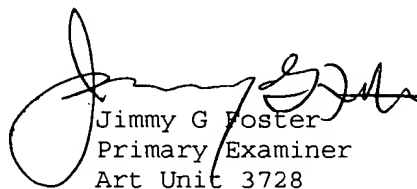
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phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Jimmy G Foster
Primary Examiner
Art Unit 3728

JGF
August 19, 2003